Introduction

In contemporary India, there are many agencies for settling disputes, which lie outside of the legal system, narrowly and authoritatively defined. Many matters are regulated by traditional norms; tribunals of the traditional type continue to function in many areas and among many groups, but without governmental force. The modern alternative dispute resolution (ADR) movement has established a method for avoiding legal adjudication by giving the disputants some degree of control over the outcome of the dispute. This has connection with Gandhian agenda for conflict resolution. Alternative dispute resolution is increasingly becoming popular in many western countries.

The socio-economic structure of Kerala is becoming more complex day by day. Conflicts are seen in every sphere of life. The state of Kerala has achieved tremendous progress in many social sectors. One of its strengths is that, in spite of a recent history of agitational politics, conflicts could be regulated to a considerable extent at the macro level. But at the community level, Kerala is plagued by numerous disputes with many of them landing in the courts. The number of disputes coming before courts is increasing as years go by. Many analysts and administrators have suggested the need for opening up new avenues for justice dispensation. The legal system is overburdened with disputes many of which could be regulated through alternative means. A number of agencies are currently involved in conflict regulation through alternative methods. They include *Panchayat* members, caste organisations and the church, legal service societies, local leaders of political parties, individuals of known integrity, counsellors and quasi-judicial means such as *Lok Adalat* and family courts. *Grama Panchayat* leaders or members play a significant role in settling disputes. They do it as a non- statutory duty in the rural areas across the state.

Many studies have pointed out that, India has moved aggressively into this realm of alternative dispute resolution. Whatever form it has taken, whether through government sponsored *Panchayats,* tribunals, consumer courts, or *lok adalats*, there has been a concerted effort to move cases out of the formal courts.

The study proposes to make a beginning by mapping and understanding alternative dispute resolution practices and resources existing in Kottayam district of Kerala. Although the study covers all agencies and individuals involved in dispute resolution, its focus is on the role of Gram panchayat members. Mediation of disputes by elected representatives of village panchayats serves a stabilising role in the rural areas and helps to relieve considerably the burden of modern judicial institutions. The present study examines the resources, skills and strategies employed by the members of the *Grama Panchayats* in local level dispute resolution and the receptivity of the people to their intervention.

Significance

Political consciousness of people in Kerala has led to remarkable experiments in the form of co-operative movements in village areas, programmes of community development and attempts at political and economic decentralisation through Panchayati Raj and *Peoples Plan Campaign*. All this led to growing politicisation of village life, a transformation of caste functions, proliferation of bureaucracy and emergence of new bases of power and influence in competition with the existing structures of domination. We can see mushrooming of *self-help groups* in every nook and corner of Kerala during the last fifteen years sponsored by local bodies under the auspices of *Kudumbasree* Poverty Eradication Mission. This has resulted in new disputes in the local area and management or resolution of them is necessary for community harmony and development. It is interesting to note that a new leadership is also emerging from this public participation process.

Although conflicts in neighbourhoods are managed through various means, there has not been any systematic study of these processes so far. A systematic study of disputes in rural areas and their settlement by non-statutory bodies in an informal manner constitute an important field of research. At present, local level dispute resolution takes place in a democratic space i.e. the elected representatives of *Grama Panchayat* have replaced the dispute resolution role of local landlords and chieftain of the dominant families – the traditional channels.

Objectives of the Study

The study seeks to:

1. To explore the significance of alternative dispute resolution practices at Panchayat level and map the various agencies involved in them.

2. To understand the nature of local conflicts those are subjected to alternative dispute resolution.

3. To analyse the various steps or processes involved in local dispute resolution practices of panchayat members, illustrated with suitable cases.

4. To understand the extent to which disputes resolved through alternative means improve the relations between the disputants.

5. To assess people’s perceptions of alternative dispute resolution.

Hypotheses

1. People prefer Alternative Dispute Resolution (ADR) practices (especially using informal dispute resolution (IDR) mechanisms) to formal dispute resolution legal institutions like court; police etc., to resolve local disputes.

2. There is a high degree of receptivity of people towards local level dispute resolution by Grama Panchayat/Members compared to other means.

3. The relationship between disputants is found be less acerbic in cases where Informal Dispute Resolution was adopted.

Methodology

The present study is largely exploratory in nature employing a descriptive and analytical approach. The researcher has used a mixed method approach, a combination of qualitative and quantitative methods. The study mainly uses the survey method. Semi-structured interview schedules were used to collect data. In addition to the schedule, suitable illustrative cases of real dispute resolution have been provided. Participant observation and oral histories also are used wherever possible. A qualitative analysis of information obtained is also provided.

Sampling

All panchayat members of Kottayam district constitute the universe of the study. The study was carried out in twenty Panchayats of Kottayam District of Kerala state. They have been selected on the basis of stratified random sampling, the stratification being based on geography (from each of the five Taluks 4 Panchayats and from each of the four panchayats five members making up a total of 100 respondents). The five members were selected on the basis of the following break-up. 1) President, 2) One senior most member, 3) One SC/ST member, 4) One woman member, 5) one member known to be efficient in conflict management.

Data were collected from a sample of 100 *Gram panchayat* members using a semi-structured interview schedule. Apart from covering the agencies and individuals involved in alternative dispute resolution, the study also makes a survey of a sample population from these twenty Panchayats in order to understand their perceptions about dispute resolution. Thirty persons from the identified wards of the twenty Panchayats of the district were selected randomly for this purpose, making up a total of 600 persons. Respondents were selected from the voters list of the panchayat using lottery method. Every 30^{th} name in the voters list was selected, and every other respondent was a woman.

In addition to semi-structured interview schedule for the Panchayat members, key informant interviews and focus group discussions (FGD) also were used in the study selectively. Five focus groups each of Panchayat members and local people have been conducted for eliciting qualitative information. Besides quasi judicial means like *Lok Adalat*, Mediation centre, Family court, Panchayat *jagratha samithi* etc were briefly covered for drawing useful insights and connections relevant to the study. Secondary data have been collected from books, journals, records, reports, and web resources relating to conflict resolution and local level dispute resolution practices.

The data collected were tabulated and analysed by using SPSS and MS Excel. Some results from the survey of a qualitative nature are presented in a narrative style.

Findings

The study shows that nearly 80 percent of the people see the Panchayat and the elected representatives as the means to settle local disputes. Thus there is considerable public visibility to the role of the elected members in local level dispute resolution. Even though the member intervenes in the disputes at the request of only one of the parties, there has not been considerable resistance from the other side in majority of the cases. Another 14 percent of the respondents approach political party and caste organisations for dispute resolution. Even though Gram panchayat is a grass root level state apparatus, the panchayat members do not generally use the authoritative character of their position in dispute resolution, preferring instead to use more non-binding informal means. Formal legal institutions like court and police have got only six (6) percent preference. Thus we can observe that people mostly prefer Informal Dispute Resolution (IDR) practices than formal dispute resolution institutions like court, police etc., to resolve local disputes.

In the case of disputes with neighbours, most citizens (59.5%) try out the first option of speaking to the adversary directly before exploring the other options. Their second choice is to meet the relatives of the adversary for their intervention in the matter for a just solution. Most of the people choose options other than police and court to solve their dispute with neighbours. Ninety six percent (96) of the people choose their first option or preference as meeting directly with their adversaries or meet their relatives or identify mediators. Court was given as the fifth preference by most of the people (96.7 %). Police have got the fourth preference by majority (94.8%) of the respondents. Mediation is currently underutilised because participants are not aware of its potential and actual benefits. In sum the dispute resolution role of the Panchayat members stems largely from their social role, a position about which the community at large generally shares expectations.

Among disputes, boundary disputes were identified by the people as the most common type subjected to dispute resolution using the intermediation of Panchayat members. The second most common type was development-related disputes, closely followed by family disputes. Boundary disputes were acknowledged by majority of the Gram panchayat members as the most common ones needing their intervention, thereby agreeing with the perception of the ordinary people. Also fifty five percent of the members confirmed that they do intervene in family disputes.

Some significant differences between panchayat members and citizens about their opinion on the type of disputes subjected to resolution at local level can be found in the result of the survey. This is particularly true with respect to family disputes and development issues. While the citizens reported development-related disputes as the second most common occurrence, the Panchayat members based on their intervention record see family disputes as the second. This is due to the underestimation of the number of family disputes by the citizens or the perception that such disputes do not fall within the dispute resolution agenda of elected representatives. While panchayat members found the category of other disputes, most of which are related to the inconvenience and threat posed by slanting tree branches, to be important,

the general population see family disputes as their third most common occurrence of conflict. These differences are primarily due to two reasons. There are regional differences with respect to the predominance of a certain type of conflicts. In addition the timing of the interview of the members and the citizens were different – with the latter being interviewed during the summer when drinking water-related conflicts were a common occurrence in the low-lying Panchayats. Furthermore, while the citizens' perception of the occurrence of different types of disputes was impressionistic, the members' opinion was based on their experience of interventions, and hence much more reliable on that count.

The researcher tried to develop a local dispute resolution model on the basis of the major inferences got from sample respondents (panchayat members). Various steps and procedures adopted by the member- respondents in dispute resolution are more or less similar in nature. A detailed analysis of the dispute resolution processes which involves a number of different steps are carried out in the thesis.

Ensuring justice is one of the goals of conflict management. The meaning of justice is widely contested between the adversaries. But many times one party's claim for justice may appear to be so extreme and so intolerant of the adversary's claims. In such situations, more than the sense of justice that the mediator understands, it is the social sense of justice that guides him/her. Panchayat members are generally known for their tendency to come up with decisions which approximate local notions of social justice. Since the public will know their decisions and proposals, they are forced to come up with solutions which can be justified in public.

The study analysed whether there is a link between informal dispute resolution and the extent of emphasis on personal relationship between the disputants in the dispute resolution process. It can be seen from the analysis that 66% of the panchayat members seek to achieve both settlement of the disputes and improved personal relationship between the parties. Local level mediation by the members comes close to the 'insider-partial' model of mediation in which the mediator gives up his neutrality and sides with justice.

All the three hypotheses of the study have been validated.

The training programmes to Panchayat members have so far neglected their dispute resolution role. The conflict management procedures adopted by the members is indeed a fast track one. The study recommends that the Kerala Institute of Local Administration should include dispute resolution as a component in their training programme for Grama panchayat members. This is an area that needs urgent attention since it serves a very important social function of resolving disputes outside the existing judicial system, which is inaccessible to the poor. It will be not mere a copy of western mediation process. But the training needs to be adapted to local conditions and must be culture- specific. The people approached the members, not because of their qualifications and skills, but their stature as 'insider-partial' mediators, persons who are known to everybody and expected to be fair in their dealings with people.

The study is in line with the gandhian approach to resolution of conflicts through mediation rather than litigation.

Chapterisation

The thesis is organised into seven chapters. The first chapter states the problem, objectives of the study, research design and methodology and reviews the relevant literature. The second chapter explores the concepts, approaches and practices in dispute resolution. It also maps various conflict resolution approaches in developed and developing nations. It contains an account of conflict resolution literature relating to Alternative Dispute Resolution relevant to the study and its implications for informal justice. The third chapter provides an overview of alternative means of dispute resolution in rural India. It contains specific review of literature in this line, functioning of non-state legal institutions like *Nyaya Panchayats* as well as *caste panchayats* and prospects of socio-legal research in India. The fourth chapter will concentrate on the importance of alternative dispute resolution with special focus on Gandhian ideas like *satyagraha*. The fifth chapter gives a short overview of alternative mechanisms of local dispute resolution in Kerala, the nature of local disputes and the institutions engaged in dispute resolution. This chapter makes an outline of the role of caste organisations, legal groups and other professional groups in dispute resolution. The sixth chapter examines the dispute resolution role of Panchayat members and a description of the research findings based on field work conducted in Panchayats. The chapter also draws on the results of a survey of 600 individuals to know the perceptions and preferences of the people about alternative dispute resolution strategies. The concluding chapter discusses the main findings of the study, and suggests a number of measures that could be adopted for enhancing of alternative means of dispute management and also for strengthening the existing means.